

Patent
Atty. Dkt. No. LYNN/0120.A

REMARKS

Claims 26-37, 40-42 and 44-49 stand rejected under 35 U.S.C. 102(a) as being anticipated by EP0905227, issued to Campestrini, *et al.* MPEP § 2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsisimilis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831 (Fed. Cir. 1990).

Applicant is unable to find any disclosure within Campestrini that sets forth a composition comprising solid dipercarboxylic acids soluble in water to a sterilizing concentration. Since such composition is claimed by Applicant, Applicant respectfully asserts that the Examiner has failed to provide a *prima facie* case of anticipation. Reconsideration and withdrawal of the rejection of independent claim 26 and all claims depending therefrom is respectfully requested.

Claims 26-37, 40-42 and 4-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,503,765 issued to Schepers, *et al.* and U.S. Patent No. 5,268,003 issued to Coope, *et al.*

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

Applicant has been unable to find any teaching or suggestion of the use of solid dipercarboxylic acids in either of the cited prior art references. Because the cited prior art reference fail to teach or suggest all the limitations of Applicant's claims, Applicant respectfully asserts that the Examiner has failed to provide a *prima facie* case of obviousness.

Patent
Atty. Dkt. No. LYNN/0120.A

Reconsideration and withdrawal of the rejection of independent claim 26 and all claims depending therefrom is respectfully requested.

Claims 26-37 40-42 and 44-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,437,868 issued to Oakes, *et al.* and U.S. Patent No. 5,049,298 issued to Ploumen, *et al.*

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

Applicant has been unable to find any teaching or suggestion in the cited prior art references of dissolving solid dipercarboxylic acids to form a sterilizing solution. Therefore, Applicant respectfully asserts that the Examiner has failed to provide a *prima facie* case of obviousness. Reconsideration and withdrawal of the rejection of independent claim 26 and all claims depending therefrom is respectfully requested.

Claims 26-37, 40-42 and 44-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,415,668 issued to Lagnemo, *et al.*

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970).

Applicant has been unable to find any teaching or suggestion in the cited prior art references of dissolving solid dipercarboxylic acids to form a sterilizing solution. Therefore, Applicant respectfully asserts that the Examiner has failed to provide a *prima facie* case of obviousness. Reconsideration and withdrawal of the rejection of independent claim 26 and all claims depending therefrom is respectfully requested.

Applicant has added a new claim to further narrow claim 26 and has cancelled claim 28. Applicant has amended claim 48 to correct the typographical error of the missing

Patent
Atty. Dkt. No. LYNN/0120.A

period. Applicant respectfully requests that the amendments be entered as no additional search will be required for the amended claims.

In conclusion, Applicant submits that all remaining claims in the present application are entitled to allowance and requests the timely issuance of a notice of allowance. In the event there are additional charges in connection with the filing of this Response, the Commissioner is hereby authorized to charge the Deposit Account No. 50-0714/LYNN-0120.A of the firm of the below-signed attorney in the amount of any necessary fee.

Respectfully submitted,



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